

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

MICCOSUKEE TRIBE OF INDIANS OF  
FLORIDA,

*Plaintiff,*

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY and UNITED  
STATES OF AMERICA,

*Defendants,*

and

THE STATE OF FLORIDA and  
FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,

*Defendant-Intervenor.*

Case No. 1:22-cv-22459-KMM

**CONSENT MOTION TO EXTEND DEADLINES**

Pursuant to Local Civil Rule 7.1, Defendants United States Environmental Protection Agency (“EPA”) and the United States of America (together, the “Federal Defendants”), and Defendant-Intervenor State of Florida and Florida Department of Environmental Protection (“Intervenor”) respectfully submit this motion to extend, by four business days, their respective deadlines for filing a combined cross-motion and opposition brief in connection with summary judgment motions. Plaintiff consents to the requested relief.

The Federal Defendants and Intervenor support this motion with good cause, as follows:

1. This is a record-review case in which Plaintiff challenges, under the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701 *et seq.*, EPA’s approval of Intervenor’s request to assume authority for regulating discharges of dredged or fill material into waters

within the jurisdiction of the State in accordance with Clean Water Act section 404(g-l).

Plaintiff seeks declaratory and injunctive relief, including vacatur of EPA's approval of Florida's proposal that the State assume responsibility for issuing permits for the discharge of dredged or fill material into certain waters within the State and subsequent transfer of authority to Florida to issue permits for the discharge of dredged or fill material into certain waters within the State.

2. On June 28, 2023, the Federal Defendants and Intervenor filed a Consent Motion for Clarification regarding the parties' proposed schedule for briefing dispositive motions. ECF No. 30. Prior to filing this motion, counsel for Federal Defendants and Intervenor conferred with counsel for Plaintiffs, and counsel for all parties agreed on the deadlines contained in the proposed schedule.

3. On July 7, 2023, the Court granted the motion and adopted the parties' agreed briefing schedule and proposed extensions to the page limitations. ECF No. 31. The Court ordered that Plaintiffs' Motion for Summary Judgment shall be filed by July 24, 2023. *Id.*

4. On July 28, 2023—four days after the deadline—Plaintiff filed its Motion for Summary Judgment. Plaintiff did not move for an extension of this deadline prior to July 24, 2023. To date, Plaintiff has not sought a *nunc pro tunc* extension or even provided counsel with an explanation for its untimely filing.<sup>1</sup>

5. Because Plaintiff's motion was four days late, the Federal Defendants and Intervenor request that the deadlines for their briefs be extended by four business days to minimize any prejudice arising from Plaintiff's late filing and to ensure that they have sufficient time to prepare their briefs, as the parties had negotiated, and the Court had directed. As the

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<sup>1</sup> The Federal Defendants and Intervenor reserve their right to make any appropriate arguments based on Plaintiff's untimely filing.

parties previously advised the Court, the parties agreed on deadlines to work around various personal and work-related scheduling conflicts among the lawyers in this case. *See* ECF No. 30 at 5.

6. The moving parties request that their deadlines be extended by four business days, as follows:

<b>Document</b>	<b>Current Deadline</b>	<b>Proposed Deadline</b>
Federal Defendants' Combined Cross-Motion for Summary Judgment and Opposition to Plaintiffs' Motion for Summary Judgment	September 21, 2023	September 27, 2023
Intervenor's Combined Cross-Motion for Summary Judgment and Opposition to Plaintiffs' Motion for Summary Judgment	October 11, 2023	October 17, 2023

7. This is the Federal Defendants' and Intervenor's first request to extend the current dispositive motion briefing schedule. The moving parties are unaware of any prejudice that would result from the extensions requested herein.

8. For good cause shown, and with Plaintiff's consent, the Federal Defendants and Intervenor respectfully move the Court to grant the requested extensions of four business days regarding their respective combined cross-motion and opposition briefs in this case.

\* \* \*

Dated: August 1, 2023

Respectfully submitted,

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